

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

KYLE CANNON, LEWIS LYONS, and DIANNE  
LYONS, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

Ashburn Corporation, Wines 'Til Sold Out  
(WTSO.com), and Jonathan H. Newman,

Defendants.

CIVIL ACTION NO.  
1:16-cv-01452-RMB-AMD

**STIPULATION OF DISMISSAL  
PURSUANT TO FED. R. CIV. P. 41**

It is hereby **STIPULATED** and **AGREED** by and between Plaintiffs Kyle Cannon, Lewis Lyons, and Dianne Lyons, individually and on behalf of all others similarly situated (“Plaintiffs”), and Defendant Jonathan H. Newman (“Mr. Newman”) (collectively, the “Parties”), as evidenced by the undersigned, that all of Plaintiffs’ claims against Mr. Newman be hereby voluntarily dismissed without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure.

Furthermore, it is hereby **STIPULATED** and **AGREED** by and between the Parties as follows:

1. The statute of limitations is tolled for claims asserted in the Complaint against Mr. Newman and for all counterclaims that Mr. Newman may assert against Plaintiffs until the close of discovery in this case or until Plaintiffs move to amend the Complaint to add Mr. Newman as a Defendant in this case, whichever occurs sooner;
2. At the close of discovery in this case, or upon Plaintiffs’ dismissal with prejudice of Defendants Ashburn Corporation and WTSO.com, whichever is earlier, Plaintiffs agree that their dismissal of Mr. Newman will be considered and construed as a dismissal with prejudice, unless Plaintiffs move to amend the

Complaint to add Mr. Newman as a defendant prior to the earlier of those two events; and

3. Mr. Newman agrees to retain all documents and ESI as if he were still a party to the lawsuit.

**SO STIPULATED.**

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BY: /s/ Adam Berger  
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Dated: **May 10, 2016**